



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,984	03/30/2004	Shigetaka Yoshikawa	10517/225	3140

23838 7590 03/02/2010
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

EXAMINER

WOOD, KIMBERLY T

ART UNIT	PAPER NUMBER
----------	--------------

3632

MAIL DATE	DELIVERY MODE
-----------	---------------

03/02/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/811,984	Applicant(s) YOSHIKAWA ET AL.	
	Examiner KIMBERLY T. WOOD	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3632

This is an office action for serial number 10/811,984.

Election/Restrictions

Claims 11-3, 15-17, 19, and 20 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 12, 2009.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the flange formed on both ends of the band (paragraph 0019) as described in the specification (the applicant needs to designate the flange with a reference number). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended."

Art Unit: 3632

If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fariello 1,858,144. Fariello disclose discloses a

Art Unit: 3632

tank main body (12), an elastic member/soft material (13, based suitable friction lining would include elastic material), a mounting member has a band (10 and 11) having a wide portion (where the bracket is attached via spot weld area near number 10 in figure 5), a bracket (26) at a spot weld zone/wide portion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-7, 1 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guenther 1,226,968. Guenther discloses a tank main body (8), an elastic member/soft material (18, based on drawing table), a mounting member has a band (6) having a wide portion (where the bracket is attached via spot weld area near 3), a bracket (1) at a spot weld zone/wide portion (3), a shift inhibiting portion (19) attached at a wide portion (near 3). Guenther discloses all of the limitations of the claimed invention except for the body forming a heat accumulation tank,

Art Unit: 3632

the shift inhibiting portion attached to the wide port of the band at a spot weld zone, the elastic member is a molded part, the elastic member is shorter than the length of the outer peripheral surface of the tank main body. Any tank can be used to store, at least for a short while a (relatively) hot medium, thus any tank is a heat accumulation tank, A tank can be nearly of any size and shape, since containers for small amounts of ink or water are named (ink) tanks or are called water tanks for steam ironing irons, such tanks can have a capacity as low as 20 - 100 ml; furthermore pipes have a storage capacity and can be used as accumulation tanks. Thus any container or pipe is a heat accumulation tank. The applicant is reminded that a spot weld zone does not positively claim that the device is spot welded therefore as long as the element is attached to the member than the area of attachment can be a spot weld zone. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the elastic member being a molded part, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the soft material of an

Art Unit: 3632

elastic member, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. It would have been an obvious matter of design choice to have made to have the tank body is shaped so as to have an increasingly wider outside diameter upwards in the vertical direction and the elastic member in the circumferential direction is shorter than the length of the outer peripheral surface of the tank main body, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art since the applicant has not shown how the chosen shape is critical. It would have been an obvious matter of design choice to have made to have the elastic member in the circumferential direction is shorter than the length of the outer peripheral surface of the tank main body A change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

Response to Arguments

Applicant's arguments filed December 28, 2009 have been fully considered but they are not persuasive.

In response to applicant's argument that Fariello and/or Guenther is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Fariello and Guenther are both within the field of applicant's endeavors are used for holding cylindrical members such as tanks therefore within the field of mounting structures for holding cylindrical members such as tanks. Any tank can be used to store, at least for a short while a (relatively) hot medium, thus any tank is a heat accumulation tank, A tank can be nearly of any size and shape, since containers for small amounts of ink or water are named (ink) tanks or are called water tanks for steam ironing irons, such tanks can have a capacity as slow as 20 - 100 ml; furthermore pipes have a storage capacity and can be used as accumulation tanks. Thus any container or pipe is a heat accumulation tank.

In response to applicant's argument that Fariello and/or Guenther do not describe a spot weld zone is hereby traversed. The applicant is reminded that a spot weld zone does not positively claim that the device is spot welded therefore as long as the element is attached to the member than the area of attachment can be a spot weld zone.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., spot welds) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIMBERLY T. WOOD whose telephone number is (571)272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly T. Wood/
Kimberly T. Wood
Primary Examiner
Art Unit 3632

February 28, 2010